

**MADISON COUNTY PLANNING BOARD
MEETING MINUTES
Madison County Administration Building, Public Meeting Room
06/28/2021**

1. **Call to Order:** 6:16 via Webex by Vice-President Steve Janzen.

2. **Roll Call:**

Members Present: Darlene Tussing (late), David Laufenberg, Pat Bradley, and Laurie Schmidt.

Members Virtual: April Gerth, Lincoln Roberts, and Steve Janzen.

Members Absent: Tamara Millican-Wood, Rita Owens, Del Bieroth, and Jackie Lev

Staff Present: Alex Hogle (Planning Director), Levi Simonson (Planner I), and Michelle Schriock (Planning Clerk)

Others Present: Beth Famiglietti (MB MT Acquisition), Christina Calabrese (MB MT Acquisition) and Kevin Germain (MB MT Acquisition)

Others Virtual: Trever McSpadden (Haystack Development), Suzi Sprout (Town of Ennis), Kristy Ranson (Town of Ennis) and Lisa Roberts (Town of Ennis)

*Delay of meeting for lack of quorum. Janzen via WebEx requested that another board member chair the meeting until Chairperson Darlene Tussing would be at meeting. Schmidt volunteered to chair meeting.

3. **Minutes:**

- March 29, 2021 – Reviewed, corrected and approved by acclimation online.
- May 24, 2021

MOTION: To approve May 24, 2021 minutes with corrections. Moved by Laufenberg; and seconded by Bradley. Motion carried.

4. **President's Comments:** None

5. **Opportunity for Public Comment for items not on the agenda:** Kevin Germain (MB MT Acquisition) provided slideshow 2021 State of the Company an overview of activities in the Big Sky area. Topics included Covid (Big Sky Relief), work force housing (3000 new beds in the next 5 years), sustainability, LEED projects, taking care of watershed and monitoring of Jack Creek, wildlife monitoring and community engagement (10 boards for the Big Sky area). Also expressed the desire to have a representative back on the board from Big Sky to keep communication open and the need for a Planning Board tour/meeting in Big Sky.

6. **Statement of Conflict of Interest/Ex Parte Communications:** None

7. **Open Public Hearing:** 6:45 p.m.

Public Hearing: MPP-21-04 Madison Overlook 2 Subdivision

Schmidt read the Statement of Process of Rights: The review process is directed by state statute and procedural rules. Rules help guarantee the rights of all parties to be fairly heard and give the Board full opportunity to deliberate on the proposal.

Simonson requested Staff Report MPP-21-04 be placed on record. He reviewed the preliminary plat application for a residential development comprised of sixteen (16) single-family residential lots, three (3) open space tracts and three (3) road lots. The project is situated in the Overlook neighborhood within the Moonlight Basin Overall Development Plan (ODP) area; Madison Overlook 2 Subdivision is located on the north side of the Moonlight Trail directly north of Madison Overlook 1 Subdivision. The subdivision and residential lots will be accessed from proposed Cicely Drive, Pinegrass Trail and Yellow Violet Trail via existing Moonlight Trail and lots are proposed to be served by existing public water and wastewater systems. The proposed subdivision is located on an undeveloped forested site with slopes less than 25%. There are several wetland areas located within the subdivision in Open Spaces 1 and 3, and lots 2, 3, 13, 14 and 15. Extensions of the Moonlight Basin Water and Sewer system's water and sewer mains will be extended to the subject property and will provide water for domestic use and fire protection and the means to convey wastewater offsite for treatment. The proposal includes a system of storm drainage ditches, culverts and a detention pond with a discharge structure to manage storm water runoff. All applicable construction setbacks from waterbodies shown on preliminary plat shall be shown on the face of the final plat and no portions of building envelopes as shown on the face of the final plat or in a building envelope plan shall be located within these setbacks.

Calabrese reviewed the project. Of concern was in Madison County Subdivision Regulations., the definition of water body verses wetlands. The water body as shown on this plat would be subject to those regulations. Need clarification of these definitions. They have followed the regulations in the 100' construction setbacks and challenge the concern over a pond that is considered a non-jurisdictional wetland as defined by the US Army Corps of Engineers.

Planning Board Discussion

Hogle – The challenge is sentence number 1 'Construction setbacks from water bodies' and further reading the regulations under (C) in that same paragraph refers to waterways creating a semantic challenge.

Germain – Lines one and two above it references streams and rivers specifically and line three references waterways. Queried board on any recollection of a setback being applied to a depressional wetland. Has a setback ever been set to a wetland, an intermittent one at that? Schmidt – They've always had intermittent as part of the definition.

Schmidt – Intermittent yes and pond definitions rely on DNRC or the Army Corps of Engineers.

Germain – This pond is a non-jurisdictional pond and could have been omitted from the application/map. According to the Army Corps of Engineers, this pond is non-jurisdictional.

Hogle – Provided pictures he had taken during a site visit the prior week.

Gerth – Has a letter been submitted to the Army Corps of Engineers about the non-jurisdictional pond and has a response been received? Germain - The letter hasn't been received to date.

Hogle – The pond would be contained in an open space area. Tasked at looking at impacts that has nothing to do with it being non-jurisdictional and the type of wetland is defined as a pond. The waterbodies definition does address the term "pond".

Bradley – Does the impact on the natural environment meet the requirements? Simonson – The language will change to reflect the 100' construction setbacks from all water bodies including the pond on Open Space #3 be shown on the final plat and no Building Envelopes shall be located within these setbacks.

Hogle – Non-jurisdictional doesn't matter when looking at impacts and it's inappropriate to ignore the matter.

Schmidt – Reiterated that the planning board has always looked at setbacks and streams. Germain – It is on an open space lot and a 100' setback is a lot to ask for.

Bradley – Concerned about lots being in wetlands, is the developer opposed to moving the homes?

Germain – Their interpretation is that setbacks have always applied to perennial streams.

Calabrese – The definitions are confusing. They've provided scrutiny on all levels. What happens in a 160-acre tract, how do they 'carve out' building envelopes in wetlands? Hogle – the Planning Department has done many building envelopes in wetlands.

Germain – They will provide a wetland study delineation report in preliminary plat.

Hogle – Read definition from the National Wetland Inventory for Palustrine Aquatic Bed

Semipermanently Flooded (PABF). Germain – With the plans provided, they've minimized impacts.

Hogle – Lot #3 has a depressional wetland and it is faulty to put a building envelope in a wetland.

Famiglietti – Provided a handout showing differences and how they can remain consistent with the 100' construction setbacks.

Laufenberg – What does PEMC stand for? Famiglietti – Palustrine EM (Emergent) C (Water Regime) Seasonally Flooded. Surface water is present for extended periods especially early in the growing season, but is absent by the end of the growing season in most years. The water table after flooding ceases is variable, extending from saturated to the surface to a water table well below the ground surface.

Bradley – Could impacts be mitigated? Hogle – yes.

7:49 p.m. Opened and closed public comment with no comments.

MOTION: Moved by Bradley to adopt Findings of Fact for MPP-21-02 Madison Overlook 2 Subdivision; and seconded by Tussing. Motion carried.

MOTION: Moved by Janzen to accept MPP-21-04 Madison Overlook 2 Subdivision with the text amendments to condition #17 as modified by the Planner; and seconded by Tussing. Motion carried.

Close Public Hearing 8:15 p.m.

Open Public Hearing 8:17 p.m.

Public Hearing: EZTA-21-01 Ennis Zoning Regulations – Text Amendment

Tussing read the Statement of Process of Rights: The review process is directed by state statute and procedural rules. Rules help guarantee the rights of all parties to be fairly heard and give the Board full opportunity to deliberate on the proposal.

Hogle requested that Staff Report EZTA-21-01 be placed on record. He reviewed the text amendments provided in the handout. During the review of a requested Conditional Use Permit in the spring of 2021, it was recognized that the current published zoning regulations were administratively and functionally problematic due to:

- A lack of specific review standards established for Conditional Use Permits;
- The regulations applicable to uses within the Core Commercial/Residential zone (C-CR) deferred to requirements of an established overlay district named Traditional Neighborhood Development (TND) which contained no actual requirements, and;
- Certain functional bulk and dimensional specifications which were established in Section 11-3-4 (Area, Yard and Height Specifications) of the regulations raised safety concerns by local emergency service providers.

The general intent of the text amendment is to establish practical review criteria for Conditional Use Permits, remove arbitrary and ambiguous content of the TND overlay, and adjust yard and height specifications to meet emergency services requests and promote reasonable lot development as

requested by the Town. Hogle has had extensive conversations with Office of Emergency Management (OEM) Director, Joe Brummell. The main concern is ability to provide services without a ladder firetruck. The closest ladder trucks are in Belgrade or Dillon to accommodate height requirements. 35' is workable but anything beyond that is of concern for OEM. Hogle discussed the table from the handout and the comment received from Josh Vujovich.

Discussion entailed the language in proposed amendment #3 – Section 11-3-4. Recognizing the Town's interest to work on those specifications themselves, there was discussion about whether Board's action should include or omit Finding #3. Schmidt encouraged the Town to not delay in the discussions and action on Section 11-3-4. Continued discussion regarding amending the language of the staff report's draft recommendation in order to provide the Town the latitude to determine the policy specifications in Section 11-3-4. The Board was concerned that practical implementation of the regulations would be jeopardized if components #1 and #2 are adopted but the specifications in Section 11-3-4 don't actually get clarified and adopted by the Town in a timely manner.

8:47 p.m. Public Comment:

Lisa Roberts – Thanked Hogle for his work on the proposed text amendments but text amendment # 3 is something that should be a work session for the Town of Ennis to work on with the area, yard and height specifications. The lots are too small as they are and the setbacks suggested make it problematic.

Kristy Ranson – Agreed with Roberts and stated that they would need to work on this as a council.

Close Public Comment.

Motion to adopt the findings of fact for EZTA-21-01. Moved by Bradley; and seconded by Schmidt. Motion carried.

Planning Board Discussion:

Gerth – She is concerned for the setbacks suggested in the table and agrees with OEM.

Tussing – Can firewalls for smaller setbacks be recommended? Hogle – these standards are set by the state.

Hogle – Suggested page 10 of Staff Report **CONCLUSION/RECOMMENDATION** to read as:

In accordance with the provisions of Section 11-1-13 of the ZONING ORDINANCE OF THE TOWN OF ENNIS (Ord. 131, 3-14-2002, the text amendment to the Regulations initiated by Town of Ennis has been reviewed. The proposed text amendment affecting Section 11-4-19, Article F, Section 11-3F-1 of the Town of Ennis Zoning Regulations appears to substantially comply with the applicable criteria and guidelines for zoning regulations. The recommendation of the Planning Board to be forwarded to the Town of Ennis for consideration and a final decision and Resolution on the matter within 90 (ninety) days.

Motion to recommend EZTA-21-01 to Town of Ennis 11-4-19, Article F, Section 11-3-F1 and 11-3-4 within a 90 (ninety) day time frame. Moved by Schmidt; and seconded by Laufenberg. Motion carried.

Close Public Hearing 9:36 p.m.

8. Pre-Application Lee's Pool 2 Subdivision

Tussing – Nothing stated by the Planning Board or the Planner during this pre-application discussion shall bind the governing body in its decision on the proposal.

Hogle provided an overview of the pre-application. The project is located in the Lee's Pool area of the Moonlight Basin Overall Development Plan (ODP) area, the subject property is Tract R of Lee's Pool Subdivision. The subdivision would create twelve (12) lots with a total of 33 units. One (1) condominium lot with 24 detached single family condominiums; eight (8) single family residential use lots; one commercial lot (Lot 9) for 'back of house' support of the hotel operation in Lee's Pool Subdivision and two (2) open space lots.

Germain noted this is a continuation of Lee's Pool. All home sites are located outside of the 100' setbacks with delineated wetlands. Germain queried the board for any questions or concerns.

Planning Board Discussion:

Tussing – Is this where the observatory and distillery will be located? Germain – No, that will be presented in the amended plat for Lee's Pool. It will be on the Open Space or created in its own tract. Presented in Phase I.

Schmidt – Concerned about wildlife (grizzly bears with a walk to the distillery).

Hogle – What will be in lot #1? Germain- there will be no condominiums located in this lot and a geotechnical report will be provided in preliminary plat.

9. **Legislative Update:** Hogle reviewed the Legislative Activity Update provided to the board regarding SB 174, SB 161 (expedited subdivision review), HB 450 {exemptions – Court ordered 76-3-201 (1-3), Mortgage/Lien 76-3-201 (4-5)} and sanitation in Subdivision Bills and Part 1 and Part 2 Zoning Bills.

10. **Budget Review:** Hogle notified board of Planner I, Levi Simonson's resignation effective July 6, 2021. He has done a great job during the time he was here and wishing him well in his new job. Hogle discussed budget's change in salaries is due to planning for a 4-person staff in the office. (Planning Director, Planner I, Planning Tech and Planning Clerk). Discussion about retention of staff to reduce burden on short staffing.

Roberts – The need for Planning is the most important thing the County should do.

11. **Unfinished Business:** Subdivision Review Committee Update. Discussion on Batch 2 and planning next meeting. Will schedule by e-mail.

12. **Monthly Report:** No concerns or questions noted.

13. Planning Board Member Reports:

Laufenberg – Is now a member of the newly constituted Virginia City Planning Board.

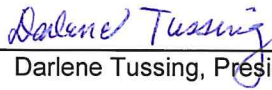
Gerth – Bob Stump (Sheridan Mayor) reached out to her for questions about zoning. She attended their board meeting as an engineer and queried questions from the board. Sheridan is looking at zoning for the future.

14. Adjournment

The meeting was adjourned at 10:37 p.m.

14. Adjournment

The meeting was adjourned at 10:37 p.m.



Darlene Tussing, President



Michelle Schriock, Secretary